

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KEVIN M. GIBBONS,

Plaintiff,

Case Number: 2:10-CV-12622

v.

HON. LAWRENCE P. ZATKOFF

NICK LUDWICK, ET AL.,

Defendants.

OPINION AND ORDER

Plaintiff Kevin M. Gibbons filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983 on July 1, 2010. After careful consideration of his complaint, on September 7, 2010, the Court summarily dismissed the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) because Plaintiff failed to state a claim upon which relief may be granted. At the same time, the Court concluded that an appeal from this order would be frivolous and not taken in good faith. On March 4, 2011, Plaintiff filed a document in this Court and the Clerk's Office docketed the filing as a Notice of Appeal (Docket #7). Accordingly, the Court did not address the filing. On August 2, 2011, however, after reviewing the filing, the Sixth Circuit ordered that this Court review and rule upon Plaintiff's March 4, 2011, which the Court of Appeals determined might be a motion to reopen the case before this Court.

The Court has now thoroughly reviewed Plaintiff's March 4, 2011, filing. In a light most favorable to Plaintiff, the filing (titled "Appealing Dismissal") could be interpreted as a motion to reconsider this Court's September 7, 2010, dismissal of Plaintiff's complaint. First, the filing is deficient because it was filed long after the 14-day period for filing motions for reconsideration in

the Eastern District of Michigan. *See* E.D. Mich. L.R. 7.1(h)(1). Second, and more importantly, Plaintiff's filing fails to explain or demonstrate how his complaint stated a claim upon which relief could be granted. Accordingly, the Court DENIES Plaintiff's motion for reconsideration (Docket #7). The Court also again concludes that an appeal from this order would be frivolous and not taken in good faith. *See* 28 U.S.C. § 1915(a)(3); *McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

IT IS SO ORDERED.

S/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF

UNITED STATES DISTRICT JUDGE

Dated: August 24, 2011

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on August 24, 2011.

S/Marie E. Verlinde

Case Manager

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